

### REMARKS

Reconsideration of this application is requested in view of the amendments to the claims and the remarks presented herein.

The claims in the application are claims 12, 13, 15, 16, 18 to 23, 25 and 26, all other claims having been cancelled.

The Examiner in the advisory action indicated that the amendment of April 7, 2003 did not put the application in condition for allowance since the definition of the membrane was in the preamble and did not significant patentable weight. Therefore, the claim language was not commensurate in scope with Applicants' arguments.

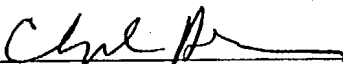
Applicants respectfully traverse these grounds of rejection since it is believed that the amended claims clearly point out Applicants' patentable contribution. Applicants do not agree with the Examiner's statement that the definition in the preamble did not have significant patentable weight in view of the CAFC's two recent decisions, namely, *Invitrogen Corp. v. Biocrest Manufacturing L.P.*, 66 USPQ 2<sup>nd</sup>, and the more recent decision of *Eaton Corp. v. Rockwell International Corporation* wherein terms in the preamble limited the claims and was not merely a statement of intended advantage. However, in order to simplify the present prosecution, claim 12 has been amended to

more clearly point out that the membrane being heated is polymer proton fuel cell exchange membrane to obviate the Examiner's objection thereto.

In order to not unduly burden the record, Applicants incorporate herewith the arguments set forth in the April 7, 2003 amendment with respect to the prior art. It should be noted that the Shimoda et al patent is directed to a porous membrane and not to a fuel cell membrane which is distinct therefrom. Therefore, the combination of the prior art fails and withdrawal of this ground of rejection is requested.

In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicants' patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,  
Muserlian, Lucas and Mercanti

  
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Charles A. Muserlian, 19,683  
Attorney for Applicants  
Tel. # (212) 661-8000

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Enclosure